

PROVIDING A 1-YEAR EXTENSION OF THE 5-YEAR LIMITATION ON THE TIME FOR PRESENTING INDIAN CLAIMS TO THE INDIAN CLAIMS COMMISSION

JULY 10, 1951.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MORRIS, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. J. Res. 210]

The Committee on Interior and Insular Affairs, to whom was referred the joint resolution (H. J. Res. 210) to provide a 1-year extension of the 5-year limitation on the time for presenting Indian claims to the Indian Claims Commission, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

House Joint Resolution 210 amends the act of August 13, 1946 (60 Stat. 1049; 25 U. S. C. 70), by providing an additional period of 1 year within which claims of Indian tribes, etc., may be filed against the United States with the Indian Claims Commission.

The act of August 13, 1946, *supra*, has as its purpose the final disposition of all claims against the United States that existed on or before the date of such act, of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States. The Indian Claims Commission, created by the act, is a special tribunal created solely for hearing and determining claims of these Indian tribes, bands, or groups. Section 12 of the act provides as follows:

The Commission shall receive claims for a period of five years after the date of the approval of this Act, and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration nor will such claim thereafter be entertained by the Congress.

Unless an extension of time is granted within which claims may be presented to the Commission, all claims not filed before that date, as provided for by the act, will be barred after August 13, 1951.

The committee is of the opinion that the time within which to file such claims should be extended for an additional 1 year.

The committee heard various witnesses in support of House Joint Resolution 210, as well as authors of similar bills now pending before the committee, in which an extension period for the filing of claims is provided. The following Congressmen introduced bills similar to House Joint Resolution 210: Victor Wickersham, H. R. 2896; George B. Schwabe, H. R. 3203; Antonio Fernandez, H. R. 4213. These bills were all considered along with House Joint Resolution 210, but since Congressman William G. Stigler, the author of House Joint Resolution 210, was also author of the original Indian Claims Commission Act, the committee felt that his bill should be reported.

The committee further received in evidence a resolution from the Oklahoma State Legislature wherein it memorialized the Congress to extend for a period of 2 years the time within which claims may be filed by the various Indian tribes, bands, or groups before the Indian Claims Commission. A representative of the American Bar Association, Mr. John W. Cragun, testified that an extension of time within which claims may be filed is deemed advisable. The Department of the Interior advised the committee that certain groups of Indians, such as those in California and Alaska, require an extension of time in order that their claims may be properly presented.

The committee began consideration of this matter with some degree of reluctance inasmuch as the purpose of the original act was to bring about a final determination of all claims of the American Indians against the United States by fixing a final date for the filing and adjudication of such claims. The reluctance, however, was overcome by the overwhelming evidence that justice will best be served by extending the period of the filing time of such claims for an additional year. Specifically, the reasons for the extension of the filing period as provided for by House Joint Resolution 210 are as follows:

(1) The setting up and organization of the Indian Claims Commission and its issuance of the necessary rules and regulations required approximately 1 year from the date of the creation of the Commission. This delay in organizing the Commission had the partial effect, at least, of permitting only 4 years instead of 5 for the filing of the claims by the Indian tribes.

(2) The confusion that has existed, and in certain instances still exists, among certain Indian tribes and groups with respect to the matter of the presentation of their claims before the Indian Claims Commission.

(3) The fact that certain Indian tribes, bands, and groups were not aware of the limitation upon the presentation of their claims as provided for by the act of August 13, 1946.

(4) That in certain instances Indian tribes have been delayed in the presentation of their claims due to the delays occasioned by the question of approval of their attorney contracts by the Secretary of the Interior. The committee has not as yet gone fully enough into the question of delay of approval of attorney contracts to reach a conclusion as to who is at fault in regard thereto, but regardless of where any fault may lie in causing delay, certainly the Indians concerned should not be prejudiced by such delays.

(5) That in certain instances, particularly with respect to the Indians of California and Alaska, the Indians have been unable to

organize themselves effectively for the presentation of their claims before the Indian Claims Commission, and extensions of time for the filing of such claims is necessary.

The Department of Justice, whose report follows, took the position that an extension of time within which the claims may be presented before the Indian Claims Commission is inadvisable. This position, in the opinion of the committee, fails to recognize all of the reasons in support of the measure, as hereinbefore set forth. It was admitted by the representative of the Department of Justice that 1 year was required for the organization of the Commission and the resultant issuance of its necessary rules and regulations; however, he took the position that it did not operate as an actual delay period. The committee finds, however, that some delay was occasioned. In addition, as was pointed out by the representative of the American Bar Association, Federal statutes in other claims cases recognize a 6-year statute of limitations. It would, therefore, seem only fair in the instant case to grant a year's extension to the American Indian, but a longer period is deemed inadvisable and unwise.

As was heretofore stated, the committee began consideration of this matter of the extension of time with a degree of caution, but upon the overwhelming evidence in support of such extension, recommends a 1-year extension of time within which claims may be presented before the Indian Claims Commission. The committee, however, desires to specifically point out to the Congress and to all Indian tribes, bands, or identifiable groups that it is the committee's recommendation that no further extension of time should at any time be given for the presentation of such claims. By this report, therefore, notice is hereby given to the Indians who may have claims against the United States that they can expect no further extension of time within which claims may be presented before the Indian Claims Commission, as far as this committee is concerned. The committee feels that the 1-year extension is fair and just and should be a finality.

The act of August 13, 1946, provides that all claims shall be adjudicated within a 10-year period from the date of such act, and there is no desire on the part of the committee to extend this period of time. This is an added reason why the committee feels that the time for filing claims should not be greater than 1 year.

The reports of the Department of the Interior and the Department of Justice are as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D. C., July 10, 1951.

Hon. JOHN R. MURDOCK,  
*Chairman, Committee on Interior and Insular Affairs,  
House of Representatives.*

MY DEAR MR. MURDOCK: Reference is made to your request for a report on House Joint Resolution 210, a bill to provide a 1-year extension of the 5-year limitation on the time for presenting Indian claims to the Indian Claims Commission.

I have no objection to the enactment of the bill.

The bill would extend for an additional period of 1 year the time allowed for filing claims against the United States before the Indian Claims Commission under the act of August 13, 1946 (60 Stat. 1049; 25 U. S. C. 70). Section 12 of that act prescribes a 5-year period of limitation, as follows:

"SEC. 12. The Commission shall receive claims for a period of five years after the date of the approval of this Act and no claims existing before such date but not presented within such period may thereafter be submitted to any court or

administrative agency for consideration, nor will such claim thereafter be entertained by the Congress."

The date of the act is August 13, 1946, and the period of limitation will therefore expire August 13, 1951.

The act of August 13, 1946, commonly referred to as the Indian Claims Commission Act, was intended to provide for a final disposition of all claims of Indian tribes against the United States that existed before the date of the act. The Indian Claims Commission is a special tribunal created solely for the purpose of hearing and determining such claims, and the 5-year period of limitation was selected as a reasonable time within which to require the claims to be presented. Additional time is allowed for the determination of the claims by the Commission.

The Commission was required by section 13 of the act to send to each Indian tribe or identifiable group, as soon as practicable after its members were appointed, an explanation of the provisions of the act with a request that a detailed statement of all claims be sent to the Commission. This was done. Further, the superintendents of all Indian agencies were required by the act to publish this explanation.

In addition, the Bureau of Indian Affairs has repeatedly called the attention of the various tribes to the 5-year period of limitation and has urged them to retain attorneys to present any claims they wished to prosecute. Written notices were sent to the tribes from the Washington office in 1947 and again in 1950, and the time limit was informally called to the attention of the tribes by the superintendents and area directors on many occasions.

In January of this year the Bureau of Indian Affairs reviewed all claims attorney contracts that had been approved and attempted to obtain from each Indian tribe that had not yet retained an attorney to prosecute its claims a definite statement that it either did or did not wish to file claims under the act. The results of that survey are as follows:

One hundred and eighty-six claims attorney contracts were approved before August 12, 1950, which was a year or more before the expiration of the 5-year period of limitation.

Sixteen claims attorney contracts were approved between August 13, 1950, and February 12, 1951, which was 6 months or more before the expiration of the 5-year period of limitation.

Seventeen claims attorney contracts have been approved since February 12, 1951.

Two claims attorney contracts are now being reviewed in the Department.

Sixteen claims attorney contracts are in process of negotiation or under consideration by Indian tribes and attorneys, but have not yet been submitted to the Department for approval.

In addition, 7 Indian tribes in the Northwest, 10 pueblos in the Southwest, and a few other tribes have indicated that they are undecided about whether they wish to file claims, and several tribes have said they do not have claims to present. We believe this data is reasonably complete, but there are some additional Indian tribes or groups that have not responded to the Bureau's inquiries. The exact number is unavailable.

A peculiar situation in California and in Alaska should be noted. One claims attorney contract with 17 bands of Mission Indians in California has been approved, and three other contracts with Indians, each purporting to represent all the Indians of California as one group, have been approved. The Indian Claims Commission recently decided that the Indians of California are not an identifiable group with common claims, and dismissed one of the petitions. H. R. 3979 has been introduced for the purpose of giving congressional recognition to the group, and if the bill is enacted all claims of the Indians of California can be determined in the litigation commenced on behalf of the group. If the bill is not enacted, I understand that there are a dozen or more individual groups of California Indians that have expressed a desire to retain an attorney to prosecute their separate claims but have taken no action to do so.

In Alaska, our most recent information indicates that 45 groups of natives have decided that they do not wish to prosecute any claims under the Indian Claims Commission Act, and that 15 native groups have stated that they do wish to file claims. The latter groups, however, have not retained attorneys for that purpose. In Alaska, the problem of claims against the United States has been confused by the controversy over the establishment of reservations for the natives and by the lack of a procedure for settling the land claims of the natives based upon aboriginal possessory rights. I plan to submit proposed legislation on this latter subject to the Congress during its current session.



The need of the Indians of California and the natives of Alaska for an extension of time to file claims under the Indian Claims Commission Act will depend largely upon the action taken by Congress on those other bills. The question might therefore appropriately be deferred until action is taken on those bills with the intention to reconsider it in the event the bills are not enacted into law.

The Department has no information that would directly support the proposed extension of time for filing claims by those attorneys who have had an approved claims attorney contract for more than a year before the 5-year period of limitation expires. This time limitation relates only to the filing of claims, and not to their actual adjudication. The process of negotiating and approving contracts is not a fast one, and it is common practice for attorneys to start their investigations of the Indian claims as soon as a contract is signed, without waiting for formal approval of the contract. In fact, I understand that most attorneys do considerable investigation work before they actually decide to take a case. In any event, a full year after approval of a contract is not an unreasonably short time within which to file claims.

The same considerations and conclusions might be said to apply to attorneys who have had approved contracts for 6 months or more before the expiration of the 5-year period.

I am inclined to attach little significance to the fact that many attorneys with approved contracts have not yet filed claims for their clients. A large number of petitions are expected to be filed in the Indian Claims Commission shortly before the August 13, 1951, time limit. If the time for filing claims is extended, the same situation can probably be anticipated toward the end of the extended period—that is, there will probably be a tendency to delay filing until the last opportunity.

Consequently, in lieu of a general 1- or 2-year extension of time for filing claims before the Indian Claims Commission, your committee may wish to consider a 6-month or 1-year extension limited to those attorneys and tribes whose contracts are approved less than 6 months or 1 year before the August 13, 1951, time limit. A 6-month extension so limited could be granted by striking everything after the enacting clause and by substituting in lieu thereof the following:

"Section 12 of the act of August 13, 1946 (60 Stat. 1049, ch. 959), is hereby amended by changing the period at the end thereof to a colon and by adding the following proviso:

"*Provided*, That notwithstanding the foregoing provisions of this section the claim of any Indian tribe, band, or other identifiable group that has an attorney contract for the presentation of such claims approved by the Secretary of the Interior or his designated representative during the period February 13, 1951, to August 13, 1951, inclusive, shall be received by the Commission if presented on or before February 13, 1952."

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee, and that the enactment of House Joint Resolution 210 would be in accord with the program of the President.

Sincerely yours,

WILLIAM E. WARNE,  
*Assistant Secretary of the Interior.*

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DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, June 27, 1951.*

HON. JOHN R. MURDOCK,  
*Chairman, Committee on Interior and Insular Affairs,  
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice relative to the resolution (H. J. Res. 210) to provide a 1-year extension of the 5-year limitation on the time for presenting Indian claims to the Indian Claims Commission.

The resolution would amend the act of August 13, 1946, as amended (60 Stat. 1049, 1052), by extending for 1 year the time within which claims may be received by the Indian Claims Commission under that act. The act now provides a 5-year period for the filing of claims.

The Department of Justice is opposed to the enactment of this measure. The 5-year period seems long enough to enable the tribes and their attorneys to investigate the facts sufficiently to enable them to prepare and file a petition. To

extend the time would place a premium on delay and would be unfair to those tribes which have been diligent. Since this is a new act, there are, of necessity, a great many questions which need to be litigated to finality before either the Indians, the Government, or the Commission are certain as to the correct answers. All of this pioneering work is being done by those attorneys who have been diligent in filing their cases. There is, of necessity, expense, work, time, and delay resulting from this situation. The tribes which hold back and do not file their claims are thus saved all of this. The Department of Justice does not believe that any extension of the time for filing Indian claims is warranted.

Yours sincerely,

PEYTON FORD,  
Deputy Attorney General.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

AN ACT To create an Indian Claims Commission, to provide for the powers, duties, and functions thereof and for other purposes

(60 Stat. 1052, U. S. C. 25, sec. 70k)

#### LIMITATIONS

SEC. 12. The Commission shall receive claims for a period of [five years] *six years* after August 13, 1946, and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by the Congress.

(60 Stat. 1055, U. S. C. 25, sec. 70v)

#### DISSOLUTION OF THE COMMISSION

SEC. 23. The existence of the Commission shall terminate at the end of ten years after the first meeting of the Commission or at such earlier time after the expiration of the [five-year period] *six-year period* of limitation set forth in section 12 hereof as the Commission shall have made its final report to Congress on all claims filed with it. Upon its dissolution the records of the Commission shall be delivered to the Archivist of the United States.

